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United States Senate

WASHINGTON, DC 20510-3703

January 6, 2004

The Honorable R.L. Brownlee
Acting Secretary of the Army
Pentagon Room 3E732
Washington, DC 20310-0108

Dear Acting Secretary Brownlee:

I am writing to request that you review the recent decision by General Robert Flowers to grant a waiver to Halliburton's Kellogg, Brown & Root (KBR) subsidiary from requirements that KBR provide data justifying the costs incurred in purchasing gasoline for Iraq at U.S. taxpayer expense. In addition, I am requesting that you make public the results of an audit by the Defense Contract Audit Agency (DCAA) that found evidence KBR had overcharged the U.S. government and the U.S. taxpayers in purchasing gasoline for Iraq.

For two reasons, it is imperative that General Flowers' decision to waive requirements for KBR be reviewed at a higher level in the Pentagon. First, General Flowers' action could undermine DCAA's efforts to investigate KBR's possible overcharging and to recover those overcharged amounts for the taxpayers if any overcharging is found. It is my understanding that KBR has reportedly refused to provide DCAA with information pertinent to the audit; surely General Flowers' action could only further frustrate DCAA's efforts to get a full accounting from KBR.

Second, KBR only remains involved in purchases of gasoline for Iraq today because of the Army Corps of Engineers' repeated delays in awarding a competitive contract to perform this service. Despite promises by the Army Corps dating back to last July to award a competitive contract to supply gasoline to Iraq, KBR continues to make these purchases under a sole source contract. Originally, the Army Corps had promised to award a competitive contract for the services now being performed by KBR by October. That award was subsequently postponed to December and then postponed again to this month. General Flowers' decision to insulate KBR from efforts to review its cost and pricing data for Iraq gasoline purchases may offer the Army Corps convenient cover for its repeated delays in competitively bidding this contract. If KBR is essentially exonerated from overcharging allegations by General Flowers' decision, the cost to American taxpayers of the Army Corps' repeated delays in the re-bidding process may never be known.

Accordingly, I urge you to personally review the merits of and circumstances surrounding General Flowers' decision to grant KBR a waiver of the normal

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requirements to provide data to justify its pricing. I believe that this would be the best way to protect the interest of the taxpayers and remove any cloud over the actions of KBR and the Army Corps.

In the meantime, I am also requesting that the results of DCAA's report on possible overcharges by KBR be publicly released. Last month, DCAA told my office that it was their intention to get its final report out before the end of 2003. The only delay in making the report public was getting KBR's response to DCAA's draft report, which was supposed to have been provided by December 17. Given that the deadline for KBR to respond has passed and the company has subsequently sought a waiver from requirements to provide relevant data to the government, giving KBR an opportunity to respond to DCAA's draft report should no longer be a valid reason to delay releasing DCAA's final report to the public.

Because Congress will soon begin examining the Administration's budget proposal, including its proposals for Iraq reconstruction, I am requesting you respond in writing within the next 30 days.

Thank you for your attention to this important taxpayer issue.

Sincerely,

RON WYDEN